



UNITED STATES PATENT AND TRADEMARK OFFICE

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San Diego, CA 92121-1613

**COPY MAILED**

**DEC 04 2006**

**OFFICE OF PETITIONS**

In re Application of :  
Mager : DECISION ON PETITION  
Application No. 09/611,221 :  
Filed: July 6, 2000 :  
Atty. Dkt. No.: MAG 0002P :

The above-identified application has been forwarded to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed October 16, 2006.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned June 22, 2006 for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed March 21, 2006. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed August 17, 2006.

Petitioner alleges non-receipt of the Notice mailed March 21, 2006.

In the absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Notice was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a

search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

The instant petition is not accompanied by any evidence to support petitioner's contention of non-receipt of the Notice. Any renewed petition must include supporting documentation to establish non-receipt of the Notice.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

**Mail Stop Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office  
Customer Window, **Mail Stop Petition**  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown  
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Office of Petitions